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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,210	05/10/2001	Yoshimasa Suzuki	208267US3	3842

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EXAMINER

COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 04/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D-3

# Office Action Summary

Application No.  
09/852,210

Applicant(s)  
Suzuki et al.

Examiner  
Charles Cooley

Art Unit  
1723



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2001 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)                      18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_                      20) ☐ Other:

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## OFFICE ACTION

1. This application has been assigned to Technology Center 1700, Art Unit 1723 and the following will apply for this application:

**a. Please direct all written correspondence with the correct application serial number for this application to Art Unit 1723.**

b. Telephone inquiries regarding this application should be directed to the Technology Center 1700 receptionist at ☎(703) 308-0651 or to the Examiner at ☎(703) 308-0112. Official facsimile correspondence filed before a final office action should be transmitted to ☎(703) 872-9310. Official facsimile correspondence which responds to a final office action should be transmitted to ☎(703) 872-9311.

c. Inquiries regarding application status, matching responses with applications, patent term questions, locating and retrieval of applications, incomplete office actions, requests for copies of office actions and/or references, requests to remail office actions, small/large entity status, or other administrative inquiries should be directed to the **Technology Center 1700 Customer Service Center** at ☎(703) 306-5665.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.

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***Drawings***

3. Applicant should verify that (1) all reference characters in the drawings are described in the detailed description portion of the specification and (2) all reference characters mentioned in the specification are included in the appropriate drawing Figure(s) as required by 37 CFR 1.84(p)(5).
4. The drawings are objected to because suitable descriptive and concise text legends should be provided to label the depicted elements of the invention such as the vacuum device 9 and vacuum meter 9a in Fig. 1 for understanding of the drawings ( 37 CFR 1.84(o)).
5. Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must include a print or pen-and-ink sketch showing changes in *red ink* in accordance with MPEP § 608.02(v).

**IMPORTANT NOTE:** The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

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***Specification***

6. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
7. The abstract is acceptable.
8. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (MPEP 606.01). The title should mention the vacuum device.

***Claim Rejections - 35 U.S.C. § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Drury (USP 4,199,866).

Since the subject matter of claim 1 is considered drawn to the mixer only, the patent to Drury (USP 4,199,866) discloses a mixer with a capsule holding chamber 18 for holding a capsule 28 for dental restoration material; the chamber 18 being connected to a vacuum device 64.

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***Claim Rejections - 35 U.S.C. § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Drury (USP 4,199,866) in view of Applicant' admitted prior art.

Drury (USP 4,199,866) discloses the vacuum device being a vacuum pump but does not disclose the vacuum device being an ejector connected to a compressed air supply device for a dental unit. Applicant' admitted prior art (Pages 19-20) teaches that

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a vacuum source can either be a prior art vacuum pump (i.e., "a usual vacuum pump") or a prior art ejector connected to a compressed air supply device for a known dental unit, where the compressed air supply device for a known dental unit placed in a dental clinic can be used as the power source thereof. Accordingly, since the admitted prior art suggests the interchangeability of such vacuum devices, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have substituted the vacuum pump of Drury (USP 4,199,866) with a prior art ejector connected to a compressed air supply device for a known dental unit for the purpose of lowering the complexity of the mixer and reducing the cost thereof by utilizing a typical on-site vacuum source in a dental clinic environment in which the mixer would typically be implemented.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Charles Cooley whose telephone number is ☎ (703) 308-0112.

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16. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is ☎ (703) 308-0651.



Dated: 12 April 2002

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**Charles Cooley**  
**Primary Examiner**  
**Art Unit 1723**